

In The Matter of Merchant Mariner's Document No. Z-734729-D2
Issued to: ELLIS J. HIGH

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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ELLIS J. HIGH

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 7 June, 1954, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-734729-D2 issued to Ellis J. High upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as a messman on board the American SS AFRICAN LIGHTNING under authority of the document above described, on or about 20 April, 1954, while said vessel was at sea, he wrongfully had in his possession a narcotic substance, marijuana.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although of his right to be represented by counsel of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement including a summary of the investigation. Appellant did not submit any circumstances in mitigation of the offense.

At the conclusion of the hearing, having given the Investigating Officer and Appellant an opportunity to submit arguments and proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by plea. he then entered the order revoking Appellant's Merchant Mariner's Document No. Z-734729-D2 and all other licenses, certificates, endorsements and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged that Appellant is not a user or dealer in any type of narcotics; he only intended to show the boys at home what "congo tobacco" looks like; Appellant is a married man with three dependents; and he has been going to sea for nine years without any prior record. It is respectfully requested that the order of revocation be set aside and that a probationary order, comparable to the punishment meted out to first offenders in the various state criminal courts, be

imposed.

APPEARANCES: Abraham Klinghoffer, Esquire, of New York City,
of Counsel.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On a foreign voyage including the date of 20 April, 1954, Appellant was serving as a messman on board the American SS AFRICAN LIGHTNING and acting under authority of his Merchant Mariner's Document No. Z-734729-D2.

While the ship was at sea on 20 April, 1954, shortly after departing from Ambrizette, Portuguese Angola, a routine search of the ship was conducted by her officers. Two packets of marijuana were found under the pillow on Appellant's bunk. Each packet contained approximately three to four ounces of marijuana. Appellant at first denied, and then admitted, ownership of the two packets of marijuana which he referred to as "congo tobacco." Appellant stated that he had obtained the two packets from a native while shore in Angola.

OPINION

Possession of marijuana is sufficient to require the application of the policy of revocation against the documents of proven narcotics offenders. The theory behind this policy is that it is necessary in order to carry out the statutory duty of the Coast Guard to promote the safety of life and property on the high seas. When marijuana or other narcotics are in the possession of seamen who are in the service of a ship, there is the constant danger that serious damage to the ship, her cargo and personnel, might result from the use of the marijuana or other narcotic. Consequently, this administrative action is one of a remedial nature and it is not comparable to the penal action taken in the criminal courts. Therefore, the order of revocation must be sustained despite the personal hardship it imposes upon Appellant and his family.

ORDER

The order of the Examiner dated at New York, New York, on 7 June, 1954, is ~~A~~FFIRMED.

A. C. Richmond
Vice Admiral, U. S. Coast Guard
Commandant

Dated at Washington, D. C., this 29th day of July, 1954.